

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

ABBVIE INC. (a Delaware corporation);
ALLERGAN, INC. (a Delaware corporation);
DURATA THERAPEUTICS, INC. (a Delaware
corporation); ABBVIE PRODUCTS LLC (a
Georgia limited liability company); APTALIS
PHARMA US, INC. (a Delaware corporation);
PHARMACYCLICS LLC (a Delaware limited
liability company); ALLERGAN SALES, LLC (a
Delaware limited liability company),

Plaintiffs,

v.

LIZ MURRILL, in her official capacity
as the Attorney General of the State of Louisiana,

Defendant.

No. 6:23-CV-01307

Judge Robert R. Summerhays

Magistrate Judge Carol B. Whitehurst

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

NOW INTO COURT, through undersigned counsel, comes Plaintiffs AbbVie Inc.; Allergan, Inc.; Durata Therapeutics, Inc; AbbVie Products LLC; Aptalis Pharma US, Inc.; Pharmacyclics LLC; Allergan Sales, LLC, ("AbbVie"), which pursuant to federal Rule of Civil Procedure 56, file this Motion for Summary Judgment, requesting that the Court enter judgement against Defendant Liz Murrill, and respectfully represents as follows:

AbbVie files this Motion seeking summary judgment as a matter of law because the Louisiana statute AbbVie challenges in this action, Act 358, violates the Supremacy Clause of the United States Constitution by intruding on an exclusively federal field of regulation: the federal 340B Drug Pricing

Program, 42 U.S.C. § 256b. Congress created and gave a federal agency exclusive authority to superintend and enforce the 340B Program. Act 358 seeks to change the scope of the federal program, including by changing which entities are permitted to access manufacturers' drugs at the 340B discounted price. Act 358 also conflicts with Congress's goals and objectives, impermissibly changes the conditions for participation in the federal Medicare and Medicaid programs, and dramatically alters who is permitted to benefit from the sale of manufacturers' drugs at discounted 340B price and who has authority to enforce the program's rules.

AbbVie also files this motion seeking summary judgment as a matter of law because the Louisiana statute AbbVie challenges in this action, Act 358, is an unconstitutional taking. Act 358 requires drug manufacturers to give their property to other private parties without adequate compensation and not for any public use.

Finally, AbbVie files this motion seeking summary judgment as a matter of law because the Louisiana statute AbbVie challenges in this action, Act 358, is incomprehensible and void for vagueness.

WHEREFORE, for the reasons set forth herein and the accompanying memorandum and exhibits in support, AbbVie request that this Court enter judgment in its favor, permanently enjoin Act 358, declare that Act 358 is unconstitutional, and order any further relief AbbVie may be entitled.

Dated: January 12, 2024

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of January, 2024, I electronically filed the forgoing with the Clerk of Court by using the CM/ECF system. The forgoing has also been served electronically on all known counsel.

By: /s/ Charles M. Jarrell
Charles M. Jarrell